

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

US ex re. VEN-A-CARE OF THE)
FLORIDA KEYS, INC.,)
)
Plaintiffs,)
)
vs) NO.
) 07-CV-11618-PBS
ABBOTT LABORATORIES, INC.,)
)
Defendants.)
) MDSL No. 1456
) No. 01-12257-PBS
)

The deposition JOHN CHRISTOPHER PAVLIK
taken in the above-entitled cause before Denise A.
Andras, a notary public within and for the County
of Cook and State of Illinois, taken pursuant to
the Federal Rules of Civil Procedure for the
United States District Courts, at 77 West Wacker
Drive, Chicago, Illinois, on the 22nd day of
January, A.D., 2009, scheduled to commence at
9:00 o'clock a.m.

<p style="text-align: right;">Page 30</p> <p>1 Q. And what did you learn?</p> <p>2 A. That there was AWP pricing out</p> <p>3 there. I didn't know how it was -- at the time I</p> <p>4 didn't know how it was really put together from</p> <p>5 our perspective because I really never got</p> <p>6 involved in I would say calculating that for</p> <p>7 people.</p> <p>8 Q. You mean calculating it like -- in</p> <p>9 what sense do you mean calculating it?</p> <p>10 A. Our AWP's at Abbott typically have</p> <p>11 not been published since I've been around, most of</p> <p>12 my career. Especially, I would say from, I'm</p> <p>13 thinking about '95 on, AWP's were just something</p> <p>14 that we didn't see too often.</p> <p>15 Q. How did you come to learn in 1995</p> <p>16 how the AWP's were published?</p> <p>17 MR. BERLIN: Objection, form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. Probably from one of my customers.</p> <p>20 BY MR. ANDERSON:</p> <p>21 Q. And is that when you learned that</p> <p>22 the AWP's were published in relation to the WAC</p> <p>23 prices?</p> <p>24 A. Boy, I don't know when I -- I just</p>	<p style="text-align: right;">Page 32</p> <p>1 A. I'm not positive --</p> <p>2 MR. BERLIN: I'm sorry. Let me --</p> <p>3 objection form, foundation. Go ahead.</p> <p>4 BY THE WITNESS:</p> <p>5 A. I wasn't positive how that all</p> <p>6 played out from a -- I know branded drugs. All I</p> <p>7 remember is that AWP for Abbott was never</p> <p>8 published by Abbott, and that there was branded --</p> <p>9 I know branded products at Abbott were basically a</p> <p>10 20 percent AWP, and my customers told me that.</p> <p>11 And then on the generic side or the erythromycin</p> <p>12 side, that was tabulated in a different way, I</p> <p>13 believe, and I'm not sure if that was WAC. I</p> <p>14 think it was WAC times 1.25, I believe.</p> <p>15 Q. And so did you ever gain an</p> <p>16 understanding why the mark-up from WAC to create</p> <p>17 the AWP was higher for the erythromycins than it</p> <p>18 was for the other Abbott PPD products?</p> <p>19 A. No.</p> <p>20 Q. Do you understand what the acronym</p> <p>21 AWP -- strike that. I'll rephrase it to be more</p> <p>22 specific.</p> <p>23 Do you understand the words that</p> <p>24 the acronym AWP stands for?</p>
<p style="text-align: right;">Page 31</p> <p>1 knew that was a function of WAC. It might have</p> <p>2 been around that time.</p> <p>3 Q. Did you understand Abbott was</p> <p>4 publishing WAC prices?</p> <p>5 A. Yes.</p> <p>6 Q. And did you understand Abbott was</p> <p>7 controlling those WAC prices?</p> <p>8 MR. BERLIN: Objection, form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I would say that we set our WAC</p> <p>11 prices. I'm not sure we controlled them. It was</p> <p>12 -- they are published.</p> <p>13 BY MR. ANDERSON:</p> <p>14 Q. Yes, sir. But did you understand</p> <p>15 that Abbott was the entity setting the prices that</p> <p>16 were in turn published?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. What was --</p> <p>19 MR. BERLIN: In that question you are</p> <p>20 referring to WAC, right?</p> <p>21 MR. ANDERSON: Yes.</p> <p>22 BY MR. ANDERSON:</p> <p>23 Q. Sir, what was the relationship</p> <p>24 between the WAC price and the AWP?</p>	<p style="text-align: right;">Page 33</p> <p>1 A. Yes.</p> <p>2 Q. And what are those words?</p> <p>3 A. Average wholesale price.</p> <p>4 Q. Other than those plain words, do you</p> <p>5 have any understanding of an industry standard</p> <p>6 meaning for AWP?</p> <p>7 A. I'm not sure I understand what you</p> <p>8 are asking.</p> <p>9 Q. Other than those words, do you have</p> <p>10 an understanding of the term AWP?</p> <p>11 A. Not really.</p> <p>12 Q. Do you have an understanding of any</p> <p>13 industry meaning or industry standard definition</p> <p>14 of the term AWP?</p> <p>15 A. Not really.</p> <p>16 Q. What's your understanding of the</p> <p>17 meaning of the term WAC?</p> <p>18 A. WAC is basically our selling price</p> <p>19 to wholesalers.</p> <p>20 Q. Is a WAC price the invoice price</p> <p>21 that Abbott bills wholesalers?</p> <p>22 A. Correct.</p> <p>23 Q. Has that always been the case for</p> <p>24 the erythromycin products to your knowledge?</p>

9 (Pages 30 to 33)

<p style="text-align: right;">Page 34</p> <p>1 A. I'm not sure how the invoices read 2 quite frankly. Wholesalers have contracts with 3 Abbott, and I'm not sure if they are billed at 4 contract or if they are billed at WAC and then a 5 chargeback, I'm not sure how that occurs. 6 Q. Do you know what words the acronym 7 WAC stands for? 8 A. Wholesale Average Cost. 9 Q. Are you aware of any meaning of the 10 term WAC other than the words Wholesale Average 11 Cost? 12 A. Wholesale Acquisition Cost, I'm 13 sorry. 14 Q. Okay. Are you aware of any meaning 15 other than the words Wholesale Acquisition Cost? 16 A. No. 17 Q. Are you aware of any industry 18 standard meaning of the term WAC? 19 A. I believe it's a price that all 20 wholesalers buy product at. That's how I perceive 21 it. I don't know how it relates to other 22 companies. 23 Q. Are you familiar with a price known 24 as base deal price?</p>	<p style="text-align: right;">Page 36</p> <p>1 they were going to be charged WAC, yes. 2 Q. And did the customers complain to 3 you about being charged WAC? 4 A. None of mine did. 5 Q. Were your customers -- do you know, 6 sir, that your customers -- strike that. I'll be 7 more specific. 8 Do you know, sir, of any 9 instance where one of your wholesaler customers 10 was billed at WAC while the base deal program was 11 in place for the erythromycins? 12 A. Yes. 13 Q. Who? 14 A. Capital, Prescription Supply, Miami 15 Luken. 16 Q. How did you come to learn of that? 17 A. They called and told me that they 18 didn't place the order, that they didn't make the 19 \$500, they couldn't. 20 Q. And were they upset? 21 A. They understood -- 22 MR. BERLIN: Objection, form, 23 foundation. 24</p>
<p style="text-align: right;">Page 35</p> <p>1 A. Yes. 2 Q. What is base deal price? 3 A. Base deal price was a price that on 4 our erythromycin line, that wholesalers could buy 5 our product. I believe they had to buy \$500 worth 6 of product to get that deal price. 7 Q. Did you find that wholesalers always 8 met the \$500 minimum purchase order? 9 A. I can't speak for all wholesalers, 10 but I know for some it's a stretch, even the small 11 guys. 12 Q. Did you find that those, the small 13 guys as you say, the smaller wholesalers, could 14 meet the \$500 minimum? 15 MR. BERLIN: Objection form, 16 foundation. 17 BY THE WITNESS: 18 A. Sometimes they couldn't. 19 BY MR. ANDERSON: 20 Q. And in those instances, what would 21 happen? 22 A. They would be charged WAC. 23 Q. And did you learn of this? 24 A. I knew that if they didn't buy \$500</p>	<p style="text-align: right;">Page 37</p> <p>1 BY THE WITNESS: 2 A. They understood. 3 BY MR. ANDERSON: 4 Q. Why were they calling you? 5 A. I think they called me to take care 6 of a handling charge, quite frankly. 7 Q. Can you explain what you mean? 8 A. Because they didn't make the minimum 9 order, there was a handling charge, and they asked 10 me to see if I could get the handling charge 11 waived, which is like, I don't know, \$10. 12 Q. When they purchased at WAC, did they 13 still receive prompt pay discounts? 14 A. They had different terms. 15 Q. Yes, sir, but, I realize the terms 16 of the prompt pay discount may have been 17 different, but did they still receive a prompt pay 18 discount? 19 A. They would have received thirty -- 20 thirty days, net thirty-one. Two percent net 21 thirty-one is what they would have received, which 22 are standard terms. 23 Q. And what were the standard terms on 24 the deal prices?</p>

10 (Pages 34 to 37)

<p style="text-align: right;">Page 42</p> <p>1 BY MR. ANDERSON:</p> <p>2 Q. Well, were they uniform? Was the</p> <p>3 chain price one single price for one drug at one</p> <p>4 time that was offered to all --</p> <p>5 A. Yes.</p> <p>6 Q. -- to all the chains?</p> <p>7 Yes, sir. Likewise, are you</p> <p>8 familiar with a term known as RBG price?</p> <p>9 A. I know what RBG stands for. I am</p> <p>10 not sure whether I ever -- I have not referred to</p> <p>11 it as RBG price.</p> <p>12 Q. Okay. Maybe you know it better than</p> <p>13 as Retail Buying Group price? Are you familiar</p> <p>14 with that term?</p> <p>15 A. Yes.</p> <p>16 Q. Did Abbott maintain Retail Buying</p> <p>17 Group prices?</p> <p>18 A. Yes.</p> <p>19 Q. And were those uniform prices that</p> <p>20 were offered on the erythromycin to all retail</p> <p>21 buying groups?</p> <p>22 A. Probably not all.</p> <p>23 Q. Most?</p> <p>24 A. I can't even say most.</p>	<p style="text-align: right;">Page 44</p> <p>1 A. A list price is what a retail</p> <p>2 customer would buy if they bought one bottle of an</p> <p>3 Abbott product instead of a case.</p> <p>4 Q. How does list price differ from AWP?</p> <p>5 MR. BERLIN: Objection, form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. Really not associated to one that</p> <p>8 I'm aware of.</p> <p>9</p> <p>10 BY MR. ANDERSON:</p> <p>11 Q. Are you aware of Abbott maintaining</p> <p>12 more than one type of list price?</p> <p>13 A. No.</p> <p>14 Q. Would you consider WAC to be a list</p> <p>15 price?</p> <p>16 MR. BERLIN: Objection, form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. No.</p> <p>19 BY MR. ANDERSON:</p> <p>20 Q. All right. Switching topics,</p> <p>21 Mr. Pavlik.</p> <p>22 When you were a NAM in '86, were</p> <p>23 the erythromycin products being marketed by Abbott</p> <p>24 as brands or generics?</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. Why did Abbott maintain Retail</p> <p>2 Buying Group prices?</p> <p>3 A. We -- because we did call on some,</p> <p>4 and I can only speak for the two that I had</p> <p>5 responsibility for. I really don't know who else</p> <p>6 even calls on retail buying groups. So I can only</p> <p>7 speak for my two.</p> <p>8 Q. Yes, sir. With respect to your two,</p> <p>9 how did the Retail Buying Group prices come into</p> <p>10 play in your dealings with your customers?</p> <p>11 A. There was an erythromycin contract</p> <p>12 that they could sign if they so desired to.</p> <p>13 Q. Were the Retail Buying Group prices</p> <p>14 that were offered as a part of that erythromycin</p> <p>15 contract different between your two buying groups?</p> <p>16 A. No.</p> <p>17 Q. Okay. So at least with respect to</p> <p>18 your buying group customers, the Retail Buying</p> <p>19 Group prices were uniform?</p> <p>20 A. Yes.</p> <p>21 Q. Are you familiar with the term "list</p> <p>22 price"?</p> <p>23 A. Yes.</p> <p>24 Q. What's a list price?</p>	<p style="text-align: right;">Page 45</p> <p>1 A. Brands.</p> <p>2 Q. So you were a NAM when the decision</p> <p>3 was made to begin marketing those products as</p> <p>4 generics, correct?</p> <p>5 A. Yes.</p> <p>6 Q. What was your understanding of the</p> <p>7 rationale behind that decision?</p> <p>8 A. Our customers had, I think, told our</p> <p>9 whole group, people who called on the various</p> <p>10 customers, that if they've got a prescription for</p> <p>11 erythromycin 250 and they would dispense an Abbott</p> <p>12 erythromycin that would not be adjudicated, they</p> <p>13 couldn't use our product. They had to use an</p> <p>14 alternative product. We didn't really understand</p> <p>15 why. And then we found out because our drugs were</p> <p>16 classified by like Medispan or First Data Bank as</p> <p>17 branded products, so they could only be used on</p> <p>18 branded prescriptions. If a doctor wrote</p> <p>19 Erythrocin 250, they could use erythrocin, but</p> <p>20 nothing else. So we could not, quite frankly -- a</p> <p>21 lot of customers couldn't use our products. They</p> <p>22 had to use alternatives.</p> <p>23 Q. And would you say that that was,</p> <p>24 that situation where customers weren't buying</p>

12 (Pages 42 to 45)

Page 54

1 wholesalers?
 2 A. Yes.
 3 Q. And do they originate from the
 4 wholesalers and then in turn you forward it to
 5 somebody at Abbott Park in PPD Pricing?
 6 A. I'm not sure.
 7 Q. But you do know that somehow they
 8 get completed by personnel within PPD and then get
 9 presented to the customers?
 10 MR. BERLIN: Objection, form.
 11
 12 BY THE WITNESS:
 13 A. Usually given to us to present to
 14 the customer.
 15 BY MR. ANDERSON:
 16 Q. Us being the NAMs?
 17 A. Yes.
 18 Q. Are you aware of any other standard
 19 types of documents that Abbott's been involved in
 20 completing or creating to communicate information
 21 to customers?
 22 A. Yes.
 23 Q. Like what?
 24 A. I'm just thinking. A new product

Page 55

1 that we just launched, we had a distribution sheet
 2 that was for warehousing chains, nonwarehousing
 3 chains and retail independents.
 4 Q. And is that what it's called, a
 5 distribution sheet?
 6 A. Yes, I would say it's basically a --
 7 somewhat like a stocking sheet, but it's basically
 8 instead of a customer buying it into a warehouse,
 9 it's actually getting it from the warehouse into
 10 the pharmacy. So I call it a distribution
 11 allowance sheet.
 12 Q. Any other standard --
 13 A. We have what is called, I think it's
 14 an MSD, it's the material safety handling sheets
 15 that typically has to be given on any new product
 16 as well.
 17 Q. Okay. Any others?
 18 A. Those are the ones that --
 19 Q. That come to mind?
 20 A. -- come to mind recently, yes.
 21 Q. The stocking sheets that are also
 22 known as the sale sheets, do those include pricing
 23 information?
 24 A. Sometimes.

Page 56

1 Q. Over the years have those sheets
 2 included AWP?
 3 A. You know, I know that there were
 4 sheets that did, but most recently I know that we
 5 never have it on there.
 6 Q. When do you think that change was
 7 made to stop placing AWP on the stocking sheets?
 8 A. I don't know the specific year. I
 9 really don't. I'd have to -- I'd have to look at
 10 some materials, you know.
 11 Q. Do you have an approximate time
 12 frame, like for instance was it 2003, 2004,
 13 earlier?
 14 A. I really don't know specifically.
 15 Q. Okay. Why were the AWP prices
 16 included on the stocking sheets --
 17 MR. BERLIN: Objection.
 18 BY MR. ANDERSON:
 19 Q. -- previously?
 20 MR. BERLIN: I'm sorry, Jarrett. I
 21 didn't mean to step on your question.
 22 MR. ANDERSON: That's okay.
 23 MR. BERLIN: Objection, form
 24 foundation.

Page 57

1 BY THE WITNESS:
 2 A. I believe they were on there
 3 probably because it was expected to be on there by
 4 our customers, and I believe it always was
 5 asterisked with an estimated AWP. I don't think
 6 it was ever a specific AWP.
 7 Q. What was your understanding of how
 8 Abbott was estimating AWP?
 9 A. I'm not sure how that was estimated,
 10 but I know that we always told customers to refer
 11 to, you know, data sources. You know, I guess it
 12 would be Red Book or First Data Bank, Medispan to
 13 get the published AWP.
 14 Q. And that was true over your 20-plus
 15 tenure as a NAM?
 16 A. I would say overall it's been, you
 17 know, pretty true because we really have not -- we
 18 never really had a -- what do I want to say -- a
 19 real education on AWP, so to speak. It was more
 20 of this published in the Red Book type of thing or
 21 Medispan, First Data Bank.
 22 Q. Did you understand why customers
 23 were expecting the AWP's to be included in these
 24 stocking sheets?

15 (Pages 54 to 57)

Page 58

1 A. Not always. I know it was expected
2 to be there. They had asked for it.

3 Q. Did you have some awareness of why
4 they were expecting it to be on the sheets?

5 MR. BERLIN: Objection, form,
6 foundation.

7 BY THE WITNESS:

8 A. I would say honestly, no, not
9 completely. I think there was inference, but
10 never a hundred percent positive.

11 BY MR. ANDERSON:

12 Q. What was your inference?

13 A. Inference would be they would want
14 to know from a third-party plan perspective, you
15 know, and then the other thing they wanted to
16 know, some customers I know, one of mine
17 specifically, would say we priced to our customers
18 off of AWP. So that was the only customer that I
19 can recall where that was important.

20 Q. You just referenced third-party
21 plans in your testimony. Are you referring to
22 third-party plans like private insurance or
23 government programs like Medicaid that reimbursed
24 for drugs?

Page 59

1 A. I would mostly be looking at
2 third-party managed care plans, not Medicaid.

3 Q. Like private insurance?

4 A. Yes.

5 Q. But drug reimbursement nonetheless?

6 A. Yes.

7 Q. And you don't have any reason to
8 testify that customers wanted AWP's on the stocking
9 sheets, only to gauge private insurance
10 reimbursement, do you?

11 A. I'm not really sure why they wanted
12 it, to be honest with you.

13 Q. But you did know that they wanted it
14 for third-party reimbursement purposes?

15 A. Not totally. That was just --

16 Q. That was your inference?

17 A. Yeah.

18 Q. Okay. Let's take a look, if we
19 could, at what's been marked as Exhibit 1.

20 (Document marked as
21 Exhibit No. 1 for
22 identification.)
23
24

Page 60

1 BY MR. ANDERSON:

2 Q. Do you recognize the type of
3 document that's been marked as Pavlik Exhibit 1?

4 A. I'm assuming that I saw this at one
5 time since it's NAM, but I don't remember it
6 specifically.

7 BY MR. ANDERSON:

8 Q. You don't remember this specific --
9 these two pages, but do you remember this type of
10 document?

11 A. Yes.

12 Q. Okay. And it's titled NAM mission
13 statement for a new product launch, correct?

14 A. Yes.

15 Q. And then it lists some elements of a
16 new product launch, correct?

17 A. Yes.

18 Q. Are those elements that are listed
19 there consistent with your experience?

20 MR. BERLIN: Is there a time period?

21 BY MR. ANDERSON:

22 Q. Over your tenure as a NAM.

23 A. I would say on new product launches,
24 most of this stuff has been there for most of the

Page 61

1 part.

2 Q. Okay. Looking at the bullet points,
3 I noticed lower-middle part of the list there is a
4 bullet that reads "pricing"?

5 A. Yes.

6 Q. Are you with me there?

7 A. Uh-huh.

8 Q. And then it says, "WAC list and
9 estimated AWP," is that correct?

10 A. Yes.

11 Q. And is that consistent with your
12 memory that prior to a launch, Abbott would set
13 those prices?

14 A. I would say in the 90's possibly.
15 Certainly not today.

16 Q. What about in the 80's?

17 A. I really don't -- I don't remember.

18 Q. You are not remembering that far
19 back?

20 A. Yes, I don't think we had a whole
21 lot of new products in the late 80's when I first
22 started this job.

23 Q. Which of those prices, WAC, list and
24 estimated AWP is Abbott currently not setting?

16 (Pages 58 to 61)

<p style="text-align: right;">Page 62</p> <p>1 A. AWP.</p> <p>2 Q. Is there a difference between AWP</p> <p>3 and estimated AWP?</p> <p>4 A. I'm not sure.</p> <p>5 Q. What department did you understand</p> <p>6 was responsible for setting the estimated AWP at</p> <p>7 Abbott?</p> <p>8 A. I'm not sure of that either. I'm</p> <p>9 not sure who did that. I just know it was always</p> <p>10 on the sheets back then.</p> <p>11 Q. And these were sheets that were</p> <p>12 coming from Abbott obviously?</p> <p>13 A. Yes.</p> <p>14 Q. So somebody at Abbott was creating</p> <p>15 an estimated AWP?</p> <p>16 MR. BERLIN: Objection, form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. Potentially yes.</p> <p>19 MR. BERLIN: Well, he is asking if</p> <p>20 you know or not.</p> <p>21 THE WITNESS: I'm not sure if it</p> <p>22 came from somebody at Abbott or somebody</p> <p>23 else. I'm not sure.</p> <p>24</p>	<p style="text-align: right;">Page 64</p> <p>1 A. I don't know that.</p> <p>2 Q. Do you know that Abbott was not</p> <p>3 sending AWP's?</p> <p>4 A. I don't know that either.</p> <p>5 Q. So if the documents show Abbott</p> <p>6 sending AWP's to the compendia, that -- you don't</p> <p>7 have any information to disagree with the</p> <p>8 documents, do you?</p> <p>9 MR. BERLIN: Well, hold on a second.</p> <p>10 Objection to form and objection to -- I</p> <p>11 mean, if you have documents that say and you</p> <p>12 want him to see it, show it to him. I mean</p> <p>13 it's like saying to a murderer -- someone</p> <p>14 who is accused, if we had a picture of you</p> <p>15 pulling the trigger of a gun, you wouldn't</p> <p>16 have any reason to believe -- either he</p> <p>17 knows or he doesn't.</p> <p>18 MR. ANDERSON: Well, you can</p> <p>19 object, Eric, and he can answer the</p> <p>20 question.</p> <p>21 MR. BERLIN: I agree. But I think</p> <p>22 it's sort of a harassing, abusive</p> <p>23 question, and that's why I stated a</p> <p>24 longer objection. You can answer if you</p>
<p style="text-align: right;">Page 63</p> <p>1 BY MR. ANDERSON:</p> <p>2 Q. But you know it was appearing on</p> <p>3 sheets that were printed by Abbott?</p> <p>4 A. On new products, yes. That's where</p> <p>5 I remember seeing estimated AWP's.</p> <p>6 Q. Looking down the list of elements of</p> <p>7 a product launch, do you see the last bullet</p> <p>8 reads, "notification to data service companies"?</p> <p>9 A. Yes.</p> <p>10 Q. And then there's a parenthetical by</p> <p>11 pricing to Medispan, First Data Bank, et cetera,</p> <p>12 did I read that correctly?</p> <p>13 A. Yes.</p> <p>14 Q. Did you understand that these</p> <p>15 estimated AWP's were being set by Abbott and then</p> <p>16 sent to the data companies like First Data Bank?</p> <p>17 MR. BERLIN: Objection, form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. I knew we were probably sending a</p> <p>20 WAC price to them, and they were probably setting</p> <p>21 the final AWP.</p> <p>22 BY MR. ANDERSON:</p> <p>23 Q. Do you know, sir, whether or not</p> <p>24 Abbott was sending AWP's?</p>	<p style="text-align: right;">Page 65</p> <p>1 can.</p> <p>2 THE WITNESS: Why don't you restate</p> <p>3 it?</p> <p>4 MR. ANDERSON: Sure.</p> <p>5 BY MR. ANDERSON:</p> <p>6 Q. Sir, if there are documents that</p> <p>7 show Abbott reporting AWP's to the compendia, do</p> <p>8 you have any information to contradict that Abbott</p> <p>9 was sending AWP's to the compendia?</p> <p>10 MR. BERLIN: Same objection.</p> <p>11 BY THE WITNESS:</p> <p>12 A. All I can tell you is that I believe</p> <p>13 we sent -- I don't know what we sent to the</p> <p>14 compendia, other than a WAC price. I don't know</p> <p>15 anything beyond that. It's really not my job.</p> <p>16 BY MR. ANDERSON:</p> <p>17 Q. Why was it that the data service</p> <p>18 companies like Medispan and First Data Bank and</p> <p>19 Red Book were notified of a product launch?</p> <p>20 A. Primarily so they would get it into</p> <p>21 the pharmacy systems and the various customers out</p> <p>22 there who get their pharmacy updates, get their</p> <p>23 pricing information, the NDC, so they can load it</p> <p>24 into their pharmacy system.</p>

17 (Pages 62 to 65)

<p style="text-align: right;">Page 102</p> <p>1 October 2002, correct?</p> <p>2 A. Yes.</p> <p>3 Q. So most likely this was a Power</p> <p>4 Point presentation that you attended, correct?</p> <p>5 MR. BERLIN: Objection, form.</p> <p>6 Objection --</p> <p>7 BY THE WITNESS:</p> <p>8 A. I really don't know.</p> <p>9 MR. BERLIN: He either remembers it</p> <p>10 or not, you are not here to ask him</p> <p>11 likelihoods.</p> <p>12 BY MR. ANDERSON:</p> <p>13 Q. In what context do you think you</p> <p>14 would have come to have this presentation?</p> <p>15 MR. BERLIN: Objection, form,</p> <p>16 misstates testimony.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I've seen -- I know I've seen some</p> <p>19 of these pages. Okay.</p> <p>20 BY MR. ANDERSON:</p> <p>21 Q. I'll tell you, Mr. Pavlik, this was</p> <p>22 produced to us in electronic form --</p> <p>23 A. Okay.</p> <p>24 Q. -- in this case. And it's my</p>	<p style="text-align: right;">Page 104</p> <p>1 A. Yes.</p> <p>2 Q. Where they would be notifying their</p> <p>3 pharmacy customers of product launches, et cetera?</p> <p>4 A. Yes.</p> <p>5 Q. Looking at this particular example</p> <p>6 of a First Facts Notification, you see that it's</p> <p>7 got AWP pricing included?</p> <p>8 A. Yes.</p> <p>9 Q. Did you understand that as recently</p> <p>10 as, for instance, 2002 Cardinal was sending out</p> <p>11 AWP information to pharmacies?</p> <p>12 A. No.</p> <p>13 Q. You knew they were notifying</p> <p>14 pharmacies about launches but you didn't realize</p> <p>15 the detailed information they were providing?</p> <p>16 A. Not for anything that I participated</p> <p>17 in, no.</p> <p>18 Q. Did you know that Cardinal was</p> <p>19 communicating AWP information to pharmacies in any</p> <p>20 way?</p> <p>21 A. No.</p> <p>22 Q. Look at the -- what's labeled as</p> <p>23 page 8 of this Exhibit.</p> <p>24 A. Okay.</p>
<p style="text-align: right;">Page 103</p> <p>1 understanding the custodian of the document was</p> <p>2 shown to be you.</p> <p>3 A. Okay.</p> <p>4 Q. Okay. Does that --</p> <p>5 A. Then.</p> <p>6 Q. You don't have any --</p> <p>7 A. Either they may have just e-mailed</p> <p>8 it to me. I don't know if I was at a meeting.</p> <p>9 Q. I see.</p> <p>10 A. Okay.</p> <p>11 Q. So is it true, sir, you may have</p> <p>12 received an e-mail of this Power Point without</p> <p>13 actually physically attending a meeting?</p> <p>14 A. Possibly, yes.</p> <p>15 Q. I see. Okay. In looking at the</p> <p>16 Power Point presentation, if you could flip to</p> <p>17 what's page 10 of the presentation.</p> <p>18 A. Okay.</p> <p>19 Q. And that appears to be a slide</p> <p>20 pertaining to the First Facts Notification</p> <p>21 Program, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And did you know that Cardinal had</p> <p>24 programs such as First Facts?</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. You see a reference there to the</p> <p>2 choice screen savers?</p> <p>3 A. Yes.</p> <p>4 Q. Are you familiar with or did you</p> <p>5 become aware over the years that Cardinal had a</p> <p>6 software program known as Cardinal Choice?</p> <p>7 A. I just called it screen savers. I</p> <p>8 don't know "Choice screen savers."</p> <p>9 Q. I'm actually asking a slightly</p> <p>10 different question, but I'll address your answer.</p> <p>11 Did you know that Cardinal marketed products to</p> <p>12 pharmacies through screen savers?</p> <p>13 A. No.</p> <p>14 Q. All right. Did you know that</p> <p>15 Cardinal offered software to pharmacies?</p> <p>16 A. No.</p> <p>17 Q. What is it that you do recall about</p> <p>18 the screen savers?</p> <p>19 A. All I know is that anything in this</p> <p>20 packet, if you participate, you pay for at</p> <p>21 Cardinal. None of this is free. So the First</p> <p>22 Facts, anything that we would participate in the</p> <p>23 First Facts I would give to Cardinal or Screen</p> <p>24 Savers I would give to Cardinal. If they sent</p>

27 (Pages 102 to 105)